

NUMBER:

84 - 141

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IN THE SUPREME COURT
OF THE
UNITED STATES

Howard Scott, In derivative Action on behalf of
LAVENDER HOUSE, INC., a public stock
company, his wife Shirley and himself

Henry Yarbrough, In derivative Action on behalf of the public company, LAVENDER HOUSE, INC.

October Term
1984

Howard L. Jenkins, In derivative Action on
behalf of the public company, LAVENDER
HOUSE, INC.

Oliver A. Darden, In derivative Action on
behalf of the public company, LAVENDER
HOUSE, INC.

Petitioners

vi

Small Business Administration

Respondent

On Appeal from the United States Court of Appeals
For the Third Circuit in Cases No. 83-1546 and 83-1572

REPLY BRIEF

Henry Yarbrough
P.O. Box 27486
6615 Blakemore Street
Philadelphia, Pennsylvania 19150

Howard L. Jenkins
827 South St. Bernard Street
Philadelphia, Pennsylvania 19143

440

DECLARATION

The undersigned petitioner being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code do here say:

That all the averments in the Petition for Writ of Certiorari are true and that the respondent in his Brief of Opposition has not denied any of them.

That the respondent would like to mislead this Honorable Court in believing the petitioners complaint pertains to Government Guaranteed Loans. But the principal complaint is the respondent's fraudulent misuse of stockholders monies. For in Condition No. 9, the respondents SBA Loan Agreement says "Net proceeds of the Company's public stock offering to be assigned to bank until this loan is fully paid." After the public stockholders money was delivered, the respondent misused these public funds. Henry Yarbrough having purchased 10,000 shares and Howard L. Jenkins having purchased 50 shares; both now ask that their public company, Lavender House, Inc be represented in Court in this Derivative Action.

Further, the respondent would have this Court believe that their attached MEMORANDUM of the District Court pertains to Yarbrough and Jenkins. If the Court will carefully note, the appended Memorandum pertains only to and about the Action of the layman Howard Scott and his pro se litigation.

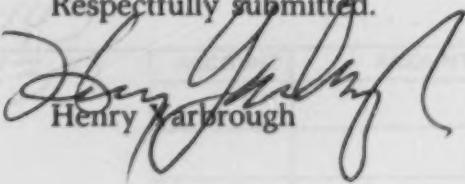
There is nothing in this Memorandum pertaining to or giving references to Yarbrough or Jenkins; and Yarbrough is the principal movant who signed the complaint and who paid the filing cost. (Payment receipt is attached) The Memorandum is in gross error in not addressing the movants, the here petitioners Yarbrough & Jenkins. Yarbrough nor Jenkins have previously signed nor filed a complaint against the respondent.

In particular, petitioners ask this Court to decree that an *Ex Parte* trial in any court of the United States is unconstitutional.

CONCLUSION

The Questions of whether an *Ex Parte* Trial in a United States District Court is a violation of the absent party Due Process Constitutional right, and, whether stockholders have notification rights under Rule 23.1, FRCP, and whether a *lymans pro se* litigation is binding on un-notified absent parties have not at all been addressed or answered or denied in the Respondent's Brief in Opposition. Petitioners then Respectfully request of this Honorable Court that their Writ for Certiorari be granted.

Respectfully submitted.


Henry Warbrough

October 31, 1984

ORIGINAL
RECEIPT FOR PAYMENT
UNITED STATES DISTRICT COURT
for
PENNSYLVANIA, EASTERN

8634

RECEIVED FROM

Bell Savings & Loan

8-143

430

Account Code
100 DEPOSIT FUND
101 Trustee Fees
102 Restitution
200 REGISTRY FUND
201 Cash Bail
202 Land Condemnation
GENERAL AND SPECIAL FUND
310 Immigration Fees
320 Attorney Admission Fee
330 Filing Fees
331 Civil Cases
332 Writ of Habeas Corpus
333 Appeals
334 Bankruptcy Cases (Clerk's Fees)
340 Sale of Publications
350 Copy Fees
360 Miscellaneous Fees
380 Recoveries of Costs

ACCOUNT	AMOUNT

TOTAL

Case Number or Other Reference

CA
831553 331 60.00 CC
60.00 IL
60.00 MOTO

111 1130 4/01/83

IA

.00 CACE

FINES, PENALTIES AND FORFEITURES
410 Agricultural Laws
420 Economic and Stabilization Laws
430 Immigration and Labor Laws
440 Customs, Commerce and Anti-Trust Laws
450 Narcotics, Prohibition and Alcohol Laws
460 Forfeitures of Unclaimed Money and Property
470 Mining Enforcement and Safety Administration
480 Internal Revenue Service (Criminal Fines)
490 Collateral Forfeitures (CVB)
500 Appearance Bond Forfeitures and
Other Fines, Penalties or Forfeitures
Not Otherwise Classified

DATE / / 19 Cash Check M.O.

DEPUTY CLERK *McS*

BEST AVAILABLE COPY